

DATE: September 10, 2014

AMENDED: October 6, 2014

FROM: US Bankruptcy Court, Northern District of Florida

TO: Participants in Mortgage Modification Mediations in Bankruptcy

SUBJECT: Uniform Mortgage Modification Mediation Procedures in the Bankruptcy Court for the Northern District of Florida

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Effective September 22, 2014, the Bankruptcy Court for the Northern District of Florida is adopting uniform mortgage modification mediation procedures (MMM). The following general terms apply:

1. MMM is available in all cases and for any type of real property.
2. A motion seeking MMM shall include, on the first page, a complete property address of the relevant property and the last four digits of the mortgage loan number(s). If this information is not included, the motion will be denied without prejudice, or abated until an amended motion containing the required information is filed.
3. No negative notice is required for a motion seeking MMM, but lenders may seek reconsideration for cause within 14 days of entry of an order directing MMM.
4. A motion seeking MMM shall be filed within 90 days of the filing or conversion of the case. The Court will enter an order directing MMM on timely filed motions. If the MMM motion is not timely filed, the Court will set a hearing and will grant the request only if good cause is demonstrated for the delay.
5. The parties will conclude the MMM process within 150 days of the filing or conversion of the case, unless that time is enlarged by written consent on the portal, by stipulation of the parties, or by Court order.
6. Parties shall have 14 days after the entry of the order directing MMM to jointly select a mediator qualified pursuant to [Amended Standing Order No. 20 Guidelines and Procedures for Mortgage Modification Mediators](#) or to object to the mediator selection process. If the parties cannot agree on a mediator, the Debtor will select a mediator, and the lender may file an objection within 7 days. If a timely objection to a mediator is filed, the Chapter 12 or 13 Trustee, or the Clerk in a Chapter 7 or 11, case will select the mediator from the Court's approved Mediator list, on a random, rotating basis.
7. Both Debtor and Lender each shall pay \$250.00 directly to the mediator within seven days of the designation of the mediator. Parties also shall equally pay the Mediator for any additional hourly fees incurred from MMM conferences that extend beyond two, one-hour sessions.
8. In an effort to expedite the exchange of information between the debtor and the lender, the Court has mandated the use of a secure online portal (the "MMM Portal")(e.g.

<https://www.dclmwp.com/Home>) for submission of documents to initiate the MMM and follow guidelines included in the Court's order directing MMM. Submitting documents to the MMM Portal provides transparency in the mortgage modification process making information immediately available to the parties. The Court encourages parties to consider using an on-line program that facilitates the preparation of the debtor's loan modification package ("Document Preparation Software"). The use of Document Preparation Software may further ensure that the initial submission to the lender is complete and accurate and expedite the lender's review. The use of an MMM Portal, especially together with Document Preparation Software, should eliminate the need for multiple submissions of documents that were not received and unnecessary delay based upon incomplete documentation

9. The parties may communicate outside the Portal orally, but all written communication shall occur through the Portal.

10. Parties may submit a proposed order simultaneously with a motion seeking approval of a *temporary* MMM agreement without need of negative notice or hearing.

11. Parties may use negative notice when filing a motion seeking approval of a *permanent* MMM agreement.

12. An order approving a permanent MMM agreement (i) shall be in a format that can be recorded in the public records of the county where the relevant property is located, and (ii) should be recorded by the Debtor within 90 days of the entry of the order, unless the parties agree otherwise.

13. In Chapter 12 and 13 cases, Debtors seeking MMM must provide adequate protection as directed in the Court's order directing MMM.

14. In Chapter 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM.

15. In Chapter 12 and 13 cases, Debtors seeking MMM must provide adequate protection to the lenders. Unless otherwise ordered by the Court: (1) for homestead properties, the Debtor must pay the Chapter 12 or 13 Trustee the lesser of (a) 31% of their gross disposable income (after deducting homeowner association fees), or (b) the normal monthly contractual mortgage payment; (2) for non-homestead property, the Debtor shall pay to the Chapter 12 or 13 Trustee 75% of all rental income generated by the property. The Trustee shall hold the funds pending either further order of the Court or a joint stipulation of the parties. In addition, with Chapter 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM.

16. Individuals who seek to modify a mortgage must have paid their bankruptcy filing fee in full prior to filing a motion to participate in MMM.

17. Once the Order authorizing MMM has been entered: 1. Any pending motion for stay relief with respect to property that is subject to MMM shall be continued until such time as the MMM has been concluded; the pendency of MMM constitutes good cause and compelling circumstances under 11 U.S.C. §362(e) to delay entry of any final decision on a pending request for stay relief. Any lender seeking relief prior to the conclusion of the MMM must file a motion requesting a hearing, setting forth the reasons why relief must be considered prior to conclusion of the MMM. 2. No motion for stay relief with respect to the property subject of the MMM may be filed on an ex parte basis.

18. The referral of a matter to MMM does not relieve the parties from complying with any other court orders or applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, Administrative Orders or Local Rules. Notwithstanding a mortgage modification matter being referred to MMM, the case shall not be stayed or delayed without further order of the Court.

19. If the debtor's case is otherwise in a posture for administrative closing, the case shall remain open during the pendency of MMM, unless otherwise ordered by the Court.

20. In the event the parties reach a final resolution or, if no agreement has been reached, without application to the Court, attorneys for debtors shall be permitted to charge an attorney's fee not to exceed \$2,500.00, and \$100.00 in costs for MMM, subject to the compensation requirements for the chapter under which the case is filed. The \$2,500.00 fee shall include: (a) Filing of the MMM Motion; (b) Preparation of all forms required for mediation; (c) Filing of other required pleadings and preparation of proposed orders, and settlement papers, as applicable; (d) Communicating with the lender and the mediator, including communications through the portal; (e) Attendance at all MMM conferences and Court hearings; and (f) Review of all modified loan documents.